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**Billing Code 4310-55**

## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

**[FWS-R9-ES-2012-N089]**

**[4500030113]**

### **Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on May 31, 2012. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However,

under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

**DATES:** You must submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-5806 (fax) or *OIRA\_DOCKET@OMB.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042-PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *INFOCOL@fws.gov* (email). Please include “1018-0119” in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Hope Grey at *INFOCOL@fws.gov* (email) or 703-358-2482 (telephone). You may review the ICR online at <http://www.reginfo.gov>. Follow the instructions to review Department of the Interior collections under review by OMB.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 1018-0119.

*Title:* Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE).

*Service Form Number(s):* None.

*Type of Request:* Extension of currently approved collection.

*Description of Respondents:* Primarily State, local, or tribal governments.

However, individuals, businesses, and not-for-profit organizations could develop agreements/plans or may agree to implement certain conservation efforts identified in a State agreement/plan.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion.

ACTIVITY	NUMBER OF RESPONDENTS	NUMBER OF RESPONSES	COMPLETION TIME PER RESPONSE	TOTAL ANNUAL BURDEN HOURS
Original Agreement	4	4	2,000 hours	8,000
Monitoring	7	7	600 hours	4,200
Reporting	7	7	120 hours	840
Totals	18	18		13,040

*Abstract:* Section 4 of the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.) specifies the process by which we can list species as threatened or endangered. When we consider whether or not to list a species, the ESA requires us to take into account the efforts being made by any State or any political subdivision of a State to protect such species. We also take into account the efforts being made by other entities. States or other entities often formalize conservation efforts in conservation agreements, conservation plans, management plans, or similar documents. The conservation efforts recommended or called for in such documents could prevent some species from becoming so imperiled that they meet the definition of a threatened or endangered species under the ESA.

The Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE) (68 FR 15100, March 28, 2003) encourages the development of conservation agreements/plans and provides certainty about the standard that an individual conservation effort must meet for us to consider whether it contributes to forming a basis for making a decision about the listing of a species. PECE applies to “formalized conservation efforts” that have not been implemented or have been implemented but have not yet demonstrated if they are effective at the time of a listing decision.

Under PECE, formalized conservation efforts are defined as conservation efforts (specific actions, activities, or programs designed to eliminate or reduce threats or otherwise improve the status of a species) identified in a conservation agreement, conservation plan, management plan, or similar document. To assist us in evaluating a formalized conservation effort under PECE, we collect information such as a conservation plan, monitoring results, or progress reports. The development of such agreements/plans is voluntary. There is no requirement that the individual conservation efforts included in such documents be designed to meet the standard in PECE. The PECE policy is posted on our Candidate Conservation Website at <http://www.fws.gov/endangered/what-we-do/candidate-conservation-process.html>.

*Comments:* On November 15, 2011, we published in the *Federal Register* (76 FR 70748) a notice of our intent to request that OMB renew approval for this

information collection. In that notice, we solicited comments for 60 days, ending on January 17, 2012. We received two comments in response to this notice.

*Commenter 1* agreed that the collection of information is necessary. The commenter recommends that the PECE policy be vetted with nongovernment organizations (NGOs), States, and Federal agencies so that when these groups are developing conservation efforts for species that may be petitioned to be listed under the ESA, they understand the evaluation bar that must be met in order for their conservation efforts to be considered as part of the Service's listing determination.

*Response:* On June 13, 2000, we published a Federal Register notice (65 FR 37102) soliciting public comments on the draft policy. We received comments from 44 entities, primarily States and NGOs. We evaluated these comments and incorporated them into the final policy, which includes a section on the evaluation criteria that conservation efforts must meet. The final policy is posted on our Candidate Conservation Webpage (<http://www.fws.gov/endangered/what-we-do/candidate-conservation-process.html>) and on our Laws and Policies Webpage (<http://www.fws.gov/endangered/laws-policies/regulations-and-policies.html>).

*Commenter 2* objected to paying for the collection of information and said that funding should be eliminated. The commenter also said its purpose is not explained very well.

*Response:* Evaluation of conservation actions as part of our listing decision is required by the ESA, and therefore cannot be eliminated. An explanation of the policy and the policy itself are posted on our Candidate Conservation Webpage. The commenter did not provide comments on the burden estimate; ways to enhance the quality, utility, and clarity of information; or on the ways to minimize the burden.

*Commenter 1* agreed that the PECE policy will not have a \$100 million annual effect or adversely affect an economic sector, productivity, jobs, the environment, or other units of government in the collection of data. However, the commenter stated that the implementation of conservation efforts measures associated with the listing under the ESA will certainly meet both the monetary bar and the adverse impacts bar.

*Response:* The burden estimates for implementing conservation actions covered by this information collection are limited to the amount of time needed to prepare the conservation agreements and to conduct the monitoring and reporting. The burden estimates do not cover the monetary cost of implementing the conservation measures themselves. The ESA specifies that we must base listing determinations solely on the basis of the best scientific and commercial data available (emphasis added) after conducting a review of the status of the species and after taking into account those conservation practices, if any, being made by any State or any political subdivision of a State to protect such species. In making a listing determination, we also consider the conservation efforts of entities other than States

and political subdivisions of States. The PECE policy describes how we will evaluate, as part of the listing determination, the extent which these conservation actions reduce the threats facing a species. Under the requirements of the ESA, we cannot use economic impacts as part of our listing determination.

*Commenter 1* stated that the PECE policy is not well distributed or understood, and claimed that finding the most recent PECE was difficult. The commenter suggested that we provide a link to the most recent version for future review, and stated that better dissemination and explanation of the policy would bolster the quality, utility and clarity of the information.

*Response:* See above for links to the policy.

*Commenter 1* stated that it is in the State's best interest to have conservation programs be successful and to allow activities that have and will occur across the landscape to continue. The commenter does not mind providing this information, provided that the Service will be acting in good faith to advance the conservation program to an approved State.

*Response:* We coordinate closely with State wildlife management agencies in the conservation and management of endangered and threatened species under the ESA. State wildlife agencies are our primary conservation partners, and we routinely share data with them. In addition, under section 6 of the ESA, we provide

grants to States and territories to participate in a wide array of voluntary conservation projects for candidate, proposed, and listed species. The grant program provides funding to States and territories for species and habitat conservation actions on non-Federal lands. A State or territory must currently have, or enter into, an approved cooperative agreement with the Secretary of the Interior to receive grants. Most States and territories have entered into these agreements for both plant and animal species.

We have not made any changes to our information collection requirements as a result of these comments.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other

personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: April 26, 2012

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Tina A. Campbell,  
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